

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Raymond Chestnut,

Petitioner,

vs.

Director D. Rhodes,

Respondent.

Civil Action No. 1:24-871-CMC

ORDER

This matter is before the court on Petitioner's *pro se* petition for writ of habeas corpus filed in this court pursuant to 28 U.S.C. § 2241. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings and a Report and Recommendation ("Report").

On February 16, 2024, the Magistrate Judge issued a Report recommending that the Petition be dismissed without prejudice and without requiring Respondents to file a return, as it fails to state facts sufficient to meet the test in *Younger v. Harris*, 401 U.S. 37 (1971). ECF No. 10. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner filed a motion to amend/correct his Petition, as well as a motion to expedite. ECF Nos. 12, 13. This case was then reassigned to the undersigned.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made

by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner’s filings, the court agrees with the conclusions of the Magistrate Judge. Petitioner’s motion to amend included his proposed Amended Petition, which asserts he is unlawfully being denied release on bail. ECF No. 12-1. He appears to abandon his claim regarding the unlawful search; however, the court will address this claim as well. Petitioner is represented in state court and can pursue his claims regarding the search warrant (see ECF No. 1) or his bond (see ECF No. 12-1) in that court. As the Supreme Court has directed federal courts should not equitably interfere with state criminal proceedings except in the most narrow and extraordinary of circumstances, which do not appear here, abstention is appropriate. Petitioner has an adequate remedy at law in state court to address both issues he has raised.

Accordingly, the court adopts and incorporates the Report and Recommendation by reference, as supplemented in this Order regarding Petitioner's new claim, and this petition is dismissed without prejudice but without leave for further amendment. Petitioner's motion to amend (ECF No. 12) is denied, and his motion to expedite (ECF No. 13) is dismissed as moot.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
May 29, 2024